



City of Hampton, VA Meeting Minutes City Council

22 Lincoln Street
Hampton, VA 23669
www.hampton.gov

Ross A. Kearney, II *Christopher G. Stuart*
Will Moffett *Donnie R. Tuck*
Joseph H. Spencer, II *George E. Wallace*
Molly Joseph Ward, Mayor

Staff:
Mary Bunting, City Manager
Cynthia Hudson, City Attorney
Katherine K. Glass, CMC, Clerk of Council

Wednesday, April 11, 2012 7:04 PM Council Chambers, 8th Floor, City Hall

CALL TO ORDER/ROLL CALL

MOLLY JOSEPH WARD PRESIDED

PRESENT: Will Moffett, Joseph H. Spencer, II, Christopher G. Stuart, Donnie R. Tuck, George E. Wallace

ABSENT: Ross A. Kearney, II

INVOCATION - Will Moffett

PLEDGE OF ALLEGIANCE TO FLAG

MAYOR'S COMMENTS

Mayor Ward welcomed everyone to the evening meeting. She stated our prayers are with the citizens of Virginia Beach affected by the Navy Jet crash and we are grateful that there were no casualties. She asked City Manager Mary Bunting to reassure the public about where we are with our clear zone efforts in Hampton.

Ms. Bunting sympathized with those who were impacted by the crash in Virginia Beach. She stated the City of Hampton has taken a positive, proactive approach in dealing with the aircraft approach in clear zones associated with Langley Air Force Base (LAFB). She clarified we do not have the encroachment in Hampton around LAFB that Virginia Beach had with Oceana and that was an issue in a prior Base Realignment and Closure (BRAC) for Virginia Beach. She noted that last week's events illustrate some of the challenges around encroachment.

Ms. Bunting stated there are some uses around LAFB which are less than desirable from LAFB's perspective; therefore, we have been addressing that issue. In 2010, we partnered with LAFB to complete a multi-jurisdictional Joint Land Use Study (JLUS) which included Hampton, Newport News, Poquoson and York County. She explained JLUS encourages cooperative land use planning between military installations and surrounding communities where civilian encroachment may impair the operations of an

installation. Future growth conflicts can be anticipated, identified and prevented and these actions can help protect the installation's military mission as well as the public health, safety and quality of life of the community around it and promotes economic stability for both the base and the community. The JLUS helps offset potential BRAC recommendations in terms of negative impacts.

Ms. Bunting said as we completed the study, it became clear that there are some privately owned uses adjacent to and near LAFB which are less than desirable. Based upon the recommendation in the JLUS, the City requested a State budget amendment to help fund the purchase of parcels located within LAFB's operational runway clear zone. We based that on the fact that Virginia Beach had received assistance from the State in dealing with encroachment issues around Oceana and felt that as the Commonwealth's only active duty Air Force Base, LAFB deserved similar consideration and support from the State of Virginia. Our request was for \$2 million and indicated if it were granted by the Commonwealth, we would look to match those funds so that we could begin to address some of these properties that are of concern for LAFB. It appears that request is in the House and Senate budgets that have been adopted; however, it is too early to celebrate because we do not have the final details of the State budget. In light of the accident which occurred last week, we are hopeful that the appropriation will remain. The appropriation currently in the State budget is \$1 million per year of the biennium. This means it would be one million in the upcoming year which we would match and a second million that would come in the following year.

Ms. Bunting reminded everyone that the Manager's Recommended Budget will be released April 13, 2012 and does not account for all of the State budget decisions. She said she hopes that it is in the final passage and we would come back with an amendment to add that revenue to our City budget and move forward with dealing with some of the encroachment issues around LAFB in the next year. She said we have long valued our partnership with LAFB, now Joint Base Langley-Eustis, and have enjoyed their guidance regarding priority acquisitions and we will follow that guidance as the State and local funds are appropriated to do so. She noted Director of Federal Facilities Support Mr. Bruce Sturk was available to answer questions should Council need further information.

Mayor Ward welcomed six Old Dominion University Journalism students to the meeting. She also commended Clerk of Council Ms. Katherine Glass and her staff for their efforts with a successful Government Scout Day. She noted usually, the Scouts spend the day at City Hall; however, this year, they spent the day at Fort Monroe learning about the new National Monument.

Councilman Stuart wished his twin sons, Brody and Cooper, a happy fourth birthday.

CONSENT AGENDA

Councilman Moffett requested item six be removed from the Consent Agenda.

Consent Items

1. 12-0112 Resolution Approving the City of Hampton, Virginia's Participation and Appropriation of the FY 2013 Public Safety Answering Point Grant.

WHEREAS, the City of Hampton has been awarded the FY2013 Public Safety Answering Point Grant in the amount of \$2,000, with no match required; and

WHEREAS, the grant award covers the period 07/01/2012 through 06/30/2013;

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Hampton accepts and appropriates the FY2013 Public Safety Answering Point Grant in the amount of \$2,000 awarded/made by the Virginia E-911 Services Board in accordance with the grant agreement;

BE IT FURTHER RESOLVED that the City Council authorizes the City Manager or his designee to take the necessary steps to implement this grant award.

APPROVED items 1 through 5 and 7 and 8 on the consent agenda.

Motion made by: Councilmember Joseph H. Spencer, II

Seconded by: Councilmember Christopher G. Stuart

Ayes: 6 - Will Moffett, Joseph H. Spencer, II, Christopher G. Stuart,
Donnie R. Tuck, George E. Wallace, Molly Joseph Ward

Nays: 0

Absent: 1 - Ross A. Kearney, II

2. 12-0119 Resolution Approving the City of Hampton, Virginia's Participation and Appropriation of the FY 2011 Competitive Emergency Management Performance Grant Through the Virginia Department of Emergency Management.

WHEREAS, the Virginia Department of Emergency Management has awarded a 2011 Competitive Emergency Management Performance Grant, Catalog of Federal Domestic Assistance Number 97.042 to the City of Hampton in the amount of \$36,250 with a 100% required local match required which will be matched by work already complete at Station 11; and

WHEREAS, the grant award covers the period 10/1/2010 through 08/31/2012;

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Hampton accepts and appropriates the 2011 Competitive Emergency Management Performance Grant, Catalog of Federal Domestic Assistance Number 97.042 in the amount of \$72,500 and any other supplemental funding awarded by the Virginia Department of Emergency Management in accordance with the grant agreement;

BE IT FURTHER RESOLVED that the City Council authorizes the City Manager or her designee to take the necessary steps to implement this grant award.

APPROVED items 1 through 5 and 7 and 8 on the consent agenda.

Motion made by: Councilmember Joseph H. Spencer, II

Seconded by: Councilmember Christopher G. Stuart

Ayes: 6 - Will Moffett, Joseph H. Spencer, II, Christopher G. Stuart,
Donnie R. Tuck, George E. Wallace, Molly Joseph Ward

Nays: 0

Absent: 1 - Ross A. Kearney, II

3. 12-0120 Resolution, Correcting Resolution No. 12-0093, Approving the City of Hampton, Virginia's Participation and Appropriation of the 2012-2013 ACT Raising Safe Kids Program through the Hampton-Newport News Criminal Justice Agency from the American Psychological Association.

WHEREAS, the Hampton-Newport News Criminal Justice Agency anticipates award of \$1,000 from the American Psychological Association to implement an eight week ACT Raising Safe Kids Program.

WHEREAS, the grant award covers the period February 1, 2012 through January 31, 2013.

WHEREAS, on March 14, 2012 the City Council approved the City's participation in this grant program pursuant to Resolution No. 12-0093 which stated an incorrect total for the grant and appropriation, the correct total being \$1,000.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Hampton accepts and appropriates the ACT Raising Safe Kids Program Grant award in the amount of \$1,000 in accordance with the grant contract; thereby correcting the amount of the appropriation made in Resolution 12-0093, which is hereby superseded.

BE IT FURTHER RESOLVED that the City Council authorizes the City Manager, or his designee, to take the necessary steps to implement this grant award.

APPROVED items 1 through 5 and 7 and 8 on the consent agenda.

Motion made by: Councilmember Joseph H. Spencer, II

Seconded by: Councilmember Christopher G. Stuart

Ayes: 6 - Will Moffett, Joseph H. Spencer, II, Christopher G. Stuart, Donnie R. Tuck, George E. Wallace, Molly Joseph Ward

Nays: 0

Absent: 1 - Ross A. Kearney, II

4. 12-0123 Resolution approving the City of Hampton, Virginia's participation and appropriation of the 2012 Assistance to Firefighters Grant submitted through the Federal Emergency Management Agency (FEMA) and the Department of Homeland Security (DHS) to the Hampton Division of Fire & Rescue.

WHEREAS, the Federal Emergency Management Agency (FEMA) and the Department of Homeland Security (DHS) has awarded the 2011 Assistance to Firefighters Grant to the City of Hampton in the amount of \$216,000 in state funds and \$54,000 in a cash match, for a total award of \$270,000; and

WHEREAS, the grand award covers the period of February 17, 2012 to February 16, 2013; and

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Hampton, Virginia accepts and appropriates the 2011 Assistance to Firefighters Grant in the amount of \$216,000, and any other supplemental funding, in accordance with the grant agreement and authorizes matching funds in the amount of \$54,000 from the City's Matching Funds Pool in accordance with the grant agreement;

BE IT FURTHER RESOLVED that the City Council authorizes the City Manager to take the necessary steps to implement this grant award.

APPROVED items 1 through 5 and 7 and 8 on the consent agenda.

Motion made by: Councilmember Joseph H. Spencer, II

Seconded by: Councilmember Christopher G. Stuart

Ayes: 6 - Will Moffett, Joseph H. Spencer, II, Christopher G. Stuart,
Donnie R. Tuck, George E. Wallace, Molly Joseph Ward

Nays: 0

Absent: 1 - Ross A. Kearney, II

5. 12-0124 Resolution Authorizing Participation in a Study of Further Regionalization of Sanitary Sewer Service and Assets

WHEREAS, the City of Hampton (the "City") owns and operates a sanitary sewer collection system directly connected to the regional sanitary sewer system owned and operated by the Hampton Roads Sanitation District ("HRSD"), a political subdivision of the Commonwealth of Virginia; and

WHEREAS, the HRSD and thirteen of the seventeen localities within Hampton Roads entered a Special Order by Consent with the State Water Control Board on September 26, 2007 (the "Order") for the purpose of resolving certain alleged violations of environmental laws and regulations; and

WHEREAS, in the course of planning actions to meet the requirements of the Order, the potential to develop a more cost effective set of actions to satisfy the requirements of the Order through consolidation of sanitary sewer assets under a single regional entity has been identified; and

WHEREAS, consolidation of all sanitary sewer assets directly connected to HRSD has the potential to reduce total sanitary sewer operation and maintenance costs for the Hampton Roads region in addition to the potential capital cost savings for the Hampton Roads regional ratepayers within the localities under the Order; and

WHEREAS, data gathering, analysis, and study are required to determine whether the benefits that may be identified within Hampton Roads from further regionalization outweigh the challenges of regional consolidation of sanitary sewer service and assets.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF HAMPTON, VIRGINIA:

1. That Council hereby requests the Hampton Roads Planning District Commission ("HRPDC") to conduct a study of further regionalization of sanitary sewer service and assets (the "Study"). The Study shall be funded by HRSD in an amount agreeable to HRSD and completed by July 1, 2013; and

2. That the City will provide access to information, data, assets, staff, and otherwise cooperate with the HRPDC and/or the HRPDC's agent in conducting the Study of regional consolidation of sanitary sewer assets, and Council will participate in a thorough evaluation of the Study results; and

3. That this request does not bind Council to participate financially in the Study or to accept, adopt, or comply with any conclusions or recommendations of the Study; and

4. That the Study will impact the City's ability to accomplish all of the work required under the Order and as such, the conduct of the Study is contingent on receiving an appropriate stay or deferral of activities required by the Order as necessary to (a) allow existing sewer managers and staff to participate fully in the Study, and (b) to avoid further study, analysis, evaluation, or performance of sewer system rehabilitation, upgrades, or replacements that may not be regionally cost effective should further regionalization of sewer service and assets be achieved as a result of the Study.

APPROVED items 1 through 5 and 7 and 8 on the consent agenda.

Motion made by: Councilmember Joseph H. Spencer, II

Seconded by: Councilmember Christopher G. Stuart

Ayes: 6 - Will Moffett, Joseph H. Spencer, II, Christopher G. Stuart, Donnie R. Tuck, George E. Wallace, Molly Joseph Ward

Nays: 0

Absent: 1 - Ross A. Kearney, II

6. 12-0125 Resolution Approving a Variable Width Water Main Easement to the City of Newport News, Totaling 690 Square Feet, More or Less, for the Exclusive, Perpetual Right and Privilege of Locating, Placing, Laying, and Maintaining Water Mains, Pipes, Laterals, and Appurtenances Through, Along, and Under the Little England Cultural Center Located on City Property at 3922 Kecoughtan Road (LRSN 2002874)

WHEREAS, the City owns property at the intersection of Kecoughtan Road and Ivy Home Road, identified as 3922 Kecoughtan Road (LRSN 2002874) (the "Property"), upon which the Newtown Learning Center ("NLC"), an older, refurbished building, was located;

WHEREAS, pursuant to the Kecoughtan Road Corridor Master Plan adopted by Council on January 25 2006, the NLC would be replaced with a larger facility known as the Little England Cultural Center ("LECC");

WHEREAS, in the fall of 2011, the NLC was demolished; and construction of the LECC began in August 2011;

WHEREAS, the LECC will be a 3,030 square foot multi-use community facility offering (i) children's after school/out of school programs; (ii) adult learning classes; (iii) public computer classes; (iv) facilities for City and community meetings; (v) summer camps; and (vi) rental space for private events (the "Project");

WHEREAS, the LECC is scheduled for completion in the spring of 2012;

WHEREAS, this Project requires a water main from the City of Newport News (via Newport News Waterworks);

WHEREAS, the City of Newport News requests a variable width water main easement totaling 690 square feet, more or less, for the exclusive perpetual right and privilege of locating, placing, laying, and maintaining water mains, pipes, laterals, and appurtenances through, along, and under the Property, as depicted on the attached aerial photograph;

WHEREAS, the grant of the water main easement to the City of Newport News is deemed fair and reasonable; and the terms of the Deed of Water Main Easement, a copy of which is attached to this Resolution, are reasonable and acceptable.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF HAMPTON, VIRGINIA:

1. That the variable width water main easement totaling 690 square feet, more or less, for the exclusive perpetual right and privilege of locating, placing, laying, and maintaining water mains, pipes, laterals, and appurtenances through, along, and under the property at 3922 Kecoughtan Road (LRSN 2002874) to the City of Newport News is hereby approved; and

2. That the City Manager or her designee is hereby authorized to execute the Deed of Water Main Easement between the City of Hampton and the City of Newport News as set forth in this Resolution.

Councilman Moffett requested item six be removed from the Consent Agenda and moved for adoption of the item as amended replacing Newport News Waterworks with the City of Newport News.

APPROVED AS AMENDED to correct the resolution to read "City of Newport News" instead of "Newport News Waterworks"

Motion made by: Councilmember Will Moffett

Seconded by: Councilmember Joseph H. Spencer, II

Ayes: 6 - Will Moffett, Joseph H. Spencer, II, Christopher G. Stuart, Donnie R. Tuck, George E. Wallace, Molly Joseph Ward

Nays: 0

Absent: 1 - Ross A. Kearney, II

7. 12-0133 Resolution Approving the City of Hampton, Virginia's Participation and Appropriation of the FY 2011 Competitive Emergency Management Performance Grant through the Virginia Department of Emergency Management.

WHEREAS, the Virginia Department of Emergency Management has awarded a 2011 Competitive Emergency Management Performance Grant, Catalog of Federal Domestic Assistance Number 97.042 to the City of Hampton in the amount of \$13,750

with a 100% required local match which will be provided by Dominion Power money for nuclear preparations; and

WHEREAS, the grant award covers the period 10/1/2010 through 08/31/2012;

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Hampton accepts and appropriates the 2011 Competitive Emergency Management Performance Grant, Catalog of Federal Domestic Assistance Number 97.042 in the amount of \$27,500 and any other supplemental funding awarded by the Virginia Department of Emergency Management in accordance with the grant agreement;

BE IT FURTHER RESOLVED that the City Council authorizes the City Manager or her designee to take the necessary steps to implement this grant award.

APPROVED items 1 through 5 and 7 and 8 on the consent agenda.

Motion made by: Councilmember Joseph H. Spencer, II

Seconded by: Councilmember Christopher G. Stuart

Ayes: 6 - Will Moffett, Joseph H. Spencer, II, Christopher G. Stuart,
Donnie R. Tuck, George E. Wallace, Molly Joseph Ward

Nays: 0

Absent: 1 - Ross A. Kearney, II

8. 12-0134 Resolution Approving the City of Hampton, Virginia's Participation and Appropriation of the FY 2011 Competitive Emergency Management Performance Grant through the Virginia Department of Emergency Management.

WHEREAS, the Virginia Department of Emergency Management has awarded a 2011 Competitive Emergency Management Performance Grant, Catalog of Federal Domestic Assistance Number 97.042 to the City of Hampton in the amount of \$5,000 with a 100% required local match which will be provided by Dominion Power money for nuclear preparations; and

WHEREAS, the grant award covers the period 10/1/2010 through 08/31/2012;

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Hampton accepts and appropriates the 2011 Competitive Emergency Management Performance Grant, Catalog of Federal Domestic Assistance Number 97.042 in the amount of \$10,000, and any other supplemental funding, awarded by the Virginia Department of Emergency Management in accordance with the grant agreement;

BE IT FURTHER RESOLVED that the City Council authorizes the City Manager or her designee to take the necessary steps to implement this grant award.

APPROVED items 1 through 5 and 7 and 8 on the consent agenda.

Motion made by: Councilmember Joseph H. Spencer, II

Seconded by: Councilmember Christopher G. Stuart

Ayes: 6 - Will Moffett, Joseph H. Spencer, II, Christopher G. Stuart,
Donnie R. Tuck, George E. Wallace, Molly Joseph Ward

Nays: 0

Absent: 1 - Ross A. Kearney, II

9. 12-0126 Ordinance (a) Vacating Surplus Unimproved City Right-of-Way Known as Center Street aka Glebe Street Located Between East Mercury Boulevard, Woodland Road and Old Buckroe Road, Abutting a Portion of City Lot LRSN:12002200, and City Lots LRSN: 12002206, LRSN:12002212, LRSN: 12002215, LRSN: 12002216, LRSN: 12002217, LRSN: 12002218, LRSN: 12002207, and LRSN: 12002221, Containing 10,580 Sq. Ft., to be Subsumed into Said City Lots; (b) Declaring Old Buckroe Road and Woodland Road Variable Width Public Rights-of-Way; and (c) Dedication to the City of Hampton for Public Right-of-Way Portions of City Lots, Abutting Woodland Road, Containing 31,225 Sq. Ft. for the Widening of Woodland Road, State Highway Project #U00-0-114-116, RW-201, and Old Buckroe Road from Woodland Road to East Mercury Boulevard, Containing 23,789 Sq. Ft.

APPROVED items 9 and 10 on the consent agenda.

Motion made by: Councilmember Joseph H. Spencer, II

Seconded by: Councilmember Christopher G. Stuart

Ayes: 6 - Will Moffett, Joseph H. Spencer, II, Christopher G. Stuart, Donnie R. Tuck, George E. Wallace, Molly Joseph Ward

Nays: 0

Absent: Ross A. Kearney, II

10. 12-0132 Approval of the Minutes from the afternoon session of February 22, 2012; the afternoon session of March 14, 2012, the public comment session of March 14, 2012; and the evening session of March 14, 2012.

APPROVED items 9 and 10 on the consent agenda.

Motion made by: Councilmember Joseph H. Spencer, II

Seconded by: Councilmember Christopher G. Stuart

Ayes: 6 - Will Moffett, Joseph H. Spencer, II, Christopher G. Stuart, Donnie R. Tuck, George E. Wallace, Molly Joseph Ward

Nays: 0

Absent: 1 - Ross A. Kearney, II

PRESENTATIONS, PROCLAMATIONS, AWARDS

PUBLIC HEARINGS

Clerk of Council Ms. Katherine Glass read the protocol for the public hearing items.

Rezoning

11. 12-0121 Ordinance to amend and re-enact chapter 18 of the Zoning Ordinance of the City of Hampton, Virginia entitled "General Provisions" by deleting sections 18-3 through 18-9, section 18-11, section 18-14 through 18-16, sections 18-18 and 18-19, and sections 18-21 through 18-24 in their entirety.

Ms. Bunting said this is a housekeeping amendment. The deleted sections in Chapter 18 are to be re-codified in Chapter 1 now entitled "Zones and General Provisions".

Accordingly, all provisions pertaining to all zoning districts would be located in Chapter 1. The Planning Commission recommends approval of this Ordinance.

City Attorney Hudson recommended hearing items 11 and 12 simultaneously since item 12 refers to re-codifying what is being taken out of item 11. Mayor Ward concurred.

Mayor Ward said no citizens had signed up to speak on either item and asked if anyone wished to speak. As there were no speakers, Mayor Ward closed the Public Hearing.

HELD PUBLIC HEARING - there were no speakers on this matter and item 12-0121 and 12-0122 were heard together.

APPROVED

Motion made by: Councilmember Christopher G. Stuart

Seconded by: Vice Mayor George E. Wallace

Aye: 6 - Will Moffett, Joseph H. Spencer, II, Christopher G. Stuart, Donnie R. Tuck, George E. Wallace, Molly Joseph Ward

Nay: 0

Absent: 1 - Ross A. Kearney, II

12. 12-0122 Ordinance to amend and re-enact chapter 1 of the Zoning Ordinance of the City of Hampton, Virginia entitled "Zones and General Provisions" by adding sections 1-8 through 1-24 previously found in chapter 18 of the zoning ordinance.

This item was discussed simultaneously with item 12-0121.

HELD PUBLIC HEARING - there were no speakers on this matter and item 12-0121 and 12-0122 were heard together.

APPROVED

Motion made by: Councilmember Christopher G. Stuart

Seconded by: Vice Mayor George E. Wallace

Aye: 6 - Will Moffett, Joseph H. Spencer, II, Christopher G. Stuart, Donnie R. Tuck, George E. Wallace, Molly Joseph Ward

Nay: 0

Absent: 1 - Ross A. Kearney, II

RESOLUTIONS

13. 12-0127 Resolution to Authorize the Acquisition, by Negotiation or Condemnation, of Right of Way Fee Takes From Portions of Three Commercial Parcels - 221 W. Pembroke Avenue (LRSN 2000777), 223 W. Pembroke Avenue (LRSN 2000776), and 227 W. Pembroke Avenue (LRSN 2000775) - for the Pembroke/Armistead Intersection Improvements, VDOT Project No. 0351-114-S06, P101, RW201, M501 (UPC-81441), City Project No. 07-005

WHEREAS, in April 2006, Council approved the design for the intersection at Pembroke and Armistead Avenues, which includes (i) adding a fifth lane to provide left-turn lanes eastbound on Pembroke Avenue at the intersection of Armistead Avenue and

(ii) modifying the existing mast arm traffic signal to accommodate the proposed design (the "Project");

WHEREAS, the purpose of the Project is to improve safety and efficiency at this intersection by reducing conflicts between the left turn lane and through vehicles while increasing lane capacity;

WHEREAS, the Project is a federally funded Highway Safety Improvement Program VDOT project; and as such, it is critical that acquisition and construction deadlines are followed as closely as possible to ensure reimbursements to the City;

WHEREAS, the Project requires right of way/fee acquisitions from portions of the following three (3) commercial parcels, which will not necessitate the displacement:

- **Part of LRSN: 2000775**
Owners: Doan Tan Nguyen, Vuong Thanh, and Thai Thanh Nguyen
Property Description: 227 W. Pembroke Avenue
Proposed Acquisition: Fee = 310 S.F.
- **Part of LRSN: 2000776**
Owners: Edward G. Miller, Jr. and Brenda M. Powell
Property Description: Vacant Lot at 223 W. Pembroke Avenue
Property Acquisition: Fee = 213 S.F.
- **Part of LRSN: 2000777**
Owner: Michael D. Murphy
Property Description: 221 W. Pembroke Avenue
Proposed Acquisition: Fee = 248 S.F.

WHEREAS, Council has determined fee acquisitions are necessary to implement the Project; and it is in the best interest of the City that portions of the parcels identified on the attached plats be acquired, by negotiation or condemnation, for the successful implementation of the Project to improve safety and efficiency at the Pembroke Avenue/Armistead Avenue Intersection and for preservation and protection of the safety, health, peace, good order, comfort, convenience, and welfare of the people of the City of Hampton.

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Hampton, Virginia, as follows:

1. That the Resolution seeking acquisition, by negotiation or condemnation, pursuant to the authority set forth in Sections 25.1-100 *et seq.* of the Code of Virginia of 1950, as amended, for right-of-way fee acquisitions are necessary to implement the Project; and it is in the best interest of the City that acquisitions from three (3) parcels for implementation of the Pembroke/Armistead Intersection Improvements, Project No. 07-005, as shown on the attached plats and ArcView drawing, is approved;

2. That the City Attorney is authorized to institute proceedings to condemn a portion of LRSNs 2000775, 2000776, and 2000777; and

3. That a certified copy of this Resolution, plats, and ArcView drawing shall be recorded in the Office of the Clerk of the Circuit Court for the City of Hampton in the manner as deeds are recorded and indexed in the name of the City of Hampton.

Ms. Bunting noted this item was discussed in depth in the afternoon meeting; and therefore, she would summarize the information. This project is a safety project approved by the Virginia Department of Transportation (VDOT). When there is accident data to support improvements, we get State highway maintenance funds to make safety improvements. In this case, the scope of work consists of adding a fifth lane to provide a left turn lane east bound on Pembroke Avenue at the intersection of Armistead Avenue, as well as adjusting the existing mast arm traffic signal to accommodate the proposed design. We need an additional right-of-way which would be taking some of the sidewalks on various parcels of land; therefore, we seek to provide a willing buyer and provide compensation for the taking of that land. We have acquired most of the land necessary for the safety project to proceed. However, there are four parcels where there are willing sellers, but there are title issues with regards to three of them that we may not be able to clear up in time for the VDOT deadline of the end of the month to have clear acquisition or to have a Council intent of clear title to properties. Council is being asked to adopt this resolution which would allow us if absolutely necessary to acquire these properties through condemnation. She reiterated that there are willing sellers for the safety project, but VDOT has applied aggressive time tables for moving projects from different phases. This is in light of Federal, regional and local desires to put money to projects that are ready to go and to keep projects moving. In the past, we could ignore these deadlines and still have the eligibility for funding. This is no longer the case. She said if we want to get this project done and maintain the VDOT support, we will have to demonstrate the ability to own the necessary right-of-way by the end of the month. She said it is our hope that we will be able to clear those title issues and complete willing transactions by the end of the month. If not, this resolution would give VDOT the comfort they need to allow us to move forward.

In response to Councilman Tuck, City Attorney Hudson explained when trying to obtain clear title, for example, to make sure that no one will dispute your claim to ownership of the property after the transaction is closed, title issue could be an outstanding judgment or tax lien against the current owner. She continued explaining those liens have to either be resolved or extinguished completely by a government entity with condemnation authority. In this situation, there is one parcel where the owner is seeking to effectuate another transaction with a neighboring property owner; so, the title issues are between them and the conveyance. It has taken longer than we expected for them to straighten it out, so we want to have this tool of condemnation available in case things don't work out and we run up against our deadline.

Councilman Tuck asked who pays for the outstanding judgment and whether or not we pay a fee in part of negotiation or do they pay the judgment with the money we are promising them.

Ms. Hudson replied that depends on how the negotiations run and noted Real Estate Manager Ms. Ayanna Williams and Senior Assistant City Attorney Ms. Veronica Sheppard were available if further information was needed regarding payment negotiations and the handling of judgment issues.

Ms. Sheppard said we are working with the owner to clear the judgments and liens on the parcels. She said the adjacent owner would like to purchase them and they both agreed to sell the right-of-way we need. The owner with the judgments has agreed to sell the parcel once the judgments are cleared. The money that we are going to pay for the right-of-way will help clear that in addition to the owner putting in money to clear the judgment.

Ms. Hudson added that this means there are equal contributions from both sides in clearing the judgments with respect to the exchanged monies.

Ms. Sheppard noted we have acquired one of the parcels. Ms. Hudson confirmed Ms. Sheppard was referring to the Wetherington Parcel which means Council would be approving condemnation with respect to three of the parcels. Ms. Sheppard concurred.

Ms. Bunting added this is a good example of how we continue to work these items so we avoid that final action unless absolutely necessary. Between the time we sent the agenda package and today, we have been able to close on another parcel.

Mayor Ward asked if it has actually closed or if the City Attorney's office has just agreed to something. Ms. Sheppard explained we have a fully executed deed that needs to be recorded.

In response to Mayor Ward, Ms. Hudson said the address is 200 West Pembroke Avenue, LRSN #2000841; 242 square feet from property owner Ralph L. Wetherington.

Councilman Spencer noted when he asked about this he knew work was in progress and a lot was going on to resolve the issue. He said we need to think about what we are doing to allow the road to create the left turn lane.

Mayor Ward noted that there were no citizens signed up to speak and asked if anyone wished to speak. As there were no speakers, Mayor Ward closed the Public Hearing.

HELD PUBLIC HEARING - there were no speakers on this matter.

PRESENTED by Mary Bunting. This item was also discussed during the afternoon work session.

The City Attorney, Cynthia Hudson, also responded to questions by Councilman Tuck with respect to title issues and payment of any existing judgments and liens.

Ms. Williams, Right of Way Agent for Public Works, also informed City Council that one of the four parcels in question has been resolved so the Resolution can be amended.

APPROVED AS AMENDED - removing 200 W. Pembroke Avenue (LRSN 2000841).

Motion made by: Councilmember Will Moffett

Seconded by: Vice Mayor George E. Wallace

Aye: 6 - Will Moffett, Joseph H. Spencer, II, Christopher G. Stuart, Donnie R. Tuck, George E. Wallace, Molly Joseph Ward

Nay: 0

Absent: 1 - Ross A. Kearney, II

GENERAL ITEMS**Appointments**

14. 12-0108 to consider appointments to the Citizens Unity Commission

APPOINTED Nashid S. Madyun in the place of Mark Board on the Citizens Unity Commission with a term expiring on June 30, 2015, and Gerard Williams in the place of Hector Cruz-Lopez with a term expiring on June 30, 2013; and appointed Tammy Trietch and Anthy L. Hall to their first full term on the Citizens Unity Commission with terms expiring on June 30, 2016.

Motion made by: Councilmember Joseph H. Spencer, II

Ayes: 5 - Will Moffett, Joseph H. Spencer, II, Christopher G. Stuart, George E. Wallace, Molly Joseph Ward

Nays: 0

Absent: 1 - Ross A. Kearney, II

Abstain: 1 - Donnie R. Tuck

15. 12-0118 to consider appointments to the Hampton Clean City Commission

APPOINTED Shenelle Jones in the place of MacGyver Dallas to serve until December 30, 2013, and Brittany Sherrod in the place of Jarrett Moore to serve until January 31, 2016.

Motion made by: Councilmember Joseph H. Spencer, II

Ayes: 5 - Will Moffett, Joseph H. Spencer, II, Christopher G. Stuart, George E. Wallace, Molly Joseph Ward

Nays: 0

Absent: 1 - Ross A. Kearney, II

Abstain: 1 - Donnie R. Tuck

16. 12-0136 to consider appointments to the Mayor's Committee for People with Disabilities

APPOINTED Mary Fountain in the place of Renee Edwards, David Braunbeck in the place of Sharon Warren, Alicia Griffin in the place of Chris Farrow, Stephanie C. Stacy in the place of Christine Felts, Jane Hobbs in the place of Sam Tollett, and Ernest Ferguson in the place of Richard Turner all until October 30, 2013, and reappoint Paula Ogiba, Sara Ruch, Warren Mills, Barbara Stewart, and Larry Townsend until October 30, 2013, and reappoint Polly B. Simmons as an associate member along with appointing Deanne Noel and Lynn Lesko as associate members, and appoint Dr. Lisa Powers in the place of Sharon Warren as a City of Hampton Liaison, and Deanne Noel representing the United States Navy and Ursula Santiago representing Joint Base Langley Eustis all for terms expiring on October 30, 2013.

Motion made by: Councilmember Joseph H. Spencer, II
Ayes: 5 - Will Moffett, Joseph H. Spencer, II, Christopher G. Stuart,
George E. Wallace, Molly Joseph Ward
Nays: 0
Absent: 1 - Ross A. Kearney, II
Abstain: 1 - Donnie R. Tuck

17. 12-0137 to consider appointments to the Hampton Redevelopment and Housing Authority

APPOINTED Councilman Will Moffett and Councilman Joseph H. Spencer, II to the interview committee for this vacancy.

Motion made by: Councilmember Joseph H. Spencer, II
Ayes: 5 - Will Moffett, Joseph H. Spencer, II, Christopher G. Stuart,
George E. Wallace, Molly Joseph Ward
Nays: 0
Absent: 1 - Ross A. Kearney, II
Abstain: 1 - Donnie R. Tuck

City Council's major focus in filling this vacancy will be applicants who are directly assisted by HRHA as a participant in either HRHA's public housing or housing choice voucher programs.

Federal law requires one board member who is directly assisted by the public housing authority. To qualify for this Board member position, candidates must be:

- A current HRHA resident or HRHA housing choice voucher participant;
- A tenant of record or authorized household member;
- At least 18 years old;
- Available to serve starting July 1, 2012; and
- In good standing with your tenancy, meaning at a minimum: HRHA has not terminated the tenancy; rent payments are up-to-date; the tenancy is not on probation; there are no pending tenancy termination charges; and no legal actions have been taken for non-payment of rent.

18. 12-0138 to consider appointments to the Hampton Parking Authority

APPOINTED Jim Turner to his second term on the Hampton Parking Authority to serve until June 30, 2016.

Motion made by: Councilmember Joseph H. Spencer, II
Ayes: 5 - Will Moffett, Joseph H. Spencer, II, Christopher G. Stuart,
George E. Wallace, Molly Joseph Ward
Nays: 0
Absent: 1 - Ross A. Kearney, II
Abstain: 1 - Donnie R. Tuck

REPORTS BY CITY MANAGER, CITY COUNCIL, STAFF, COMMITTEES

Ms. Bunting noted this portion of the meeting is reserved to report on issues that may arise during Public Comment and/or issues to be discussed at the following meeting. She clarified that this is not an opportunity to respond to political comments because her job as a professional administrator is to provide Council with facts about relative issues.

Ms. Bunting addressed the assertion made that emails, phone calls and public comments are not responded to. She explained that is not the case; however, we do not respond to public comment that is political in nature because it is not staff's role. However, when citizens come forward with concerns regarding their neighborhood, the budget and/or City related activities, we endeavor to respond to them. She noted some items need research; and therefore, we may not be able to respond immediately. For example, a citizen recently contacted us regarding LAFB, but we need time to coordinate with LAFB to gather proper information. She reiterated for the record that we do respond to emails and phone calls.

Ms. Bunting addressed the assertion made regarding the School system budget. The Manager's Recommended Budget will be released April 13, 2012. The School system has a pending request of Council to consider a dedicated tax increase to support money they would like to have restored to avoid having to make various cuts. The School Board members have reached out to Council to arrange School Board/Council buddy meetings, some of which have already taken place. Pending information from the State Budget, the need for the tax increase may be mitigated in total or in part based upon State budgetary action. She stated the assertion that there are millions of dollars sitting around to address recurring shortfalls is not true. We are required to have a healthy fund balance reserve in order to maintain our AA Plus Bond Rating. We also have funds allocated to certain capital projects; however, these are all one-time funds, not recurring funds. The funds we have available are one-time funds in nature; however, the School system is looking for recurring revenues that need to be supported with recurring money such as taxes and/or other fees available to the City. The State budget may produce additional revenue for the School system. Once we get that information, we will update Council and the community.

Ms. Bunting addressed the comment made relative to the Harbor Square purchase. She stated it is absolutely factually correct that neither the Mayor nor any Trust members benefited from the purchase of Harbor Square. There were no financial disbursements to that trust or any other member associated with the Harbor Square purchase. All money that we paid went directly to the Virginia Housing Development Authority (VHDA).

THERE WERE NO MISCELLANEOUS NEW BUSINESS ITEMS DISCUSSED

The meeting adjourned at 7:42 p.m.

Molly Joseph Ward
Mayor

Katherine K. Glass, CMC
Clerk of Council

Date approved by Council _____